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STAFF REPORT: EXTENSION OF A COASTAL DEVELOPMENT PERMIT

Local government **City of Morro Bay**

Local decision..... Approved with conditions, 9/27/99

Appeal number..... **A-3-MRB-99-082**

Applicants..... **Tri W Enterprises, Inc.**

Project location.....Terminus of Morro Bay Boulevard at Highway One, Morro Bay (San Luis Obispo County) (APN 064-401-004)

Project description.....One (1) year time extension for PM 04-92/CDP 43-92 allowing a minor land division of an approximately 175 acre parcel to create one 17.54 acre parcel and one remainder parcel of approximately 157 acres. Original tentative map approved June 14, 1993.

Substantive file documents..... City of Morro Bay Administrative Record for PM 04-92/CDP43-92; City of Morro Bay certified Local Coastal Program.

Staff recommendation **Denial of Extension**

Note: Staff recommended a finding of no substantial issue at the October 2000 hearing; however, on October 12, 2000, the Commission found that a substantial issue exists with respect to the contentions raised by the appeal, and took jurisdiction over the coastal development permit by a vote of 8 to 1. This staff report includes findings only for the de novo hearing.

EXECUTIVE SUMMARY

The Commission has identified a number of issues that raise questions regarding the consistency of the extension of the permit with the certified LCP. First, while the land use history of the site indicates approval of a commercial development in the area shown in Exhibit 2, no land division, or extension thereof, may be approved unless there is a requirement that the applicant “permanently secure the remaining acreage in agricultural use.” The City did not apply all necessary requirements regarding the protection of agricultural land, and therefore, the request for time extension of the coastal development permit must be denied. Second, there are a number of changed circumstances, including



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the designation of this portion of Highway One as a State Scenic Highway and the potential for future development on the newly created parcel to exacerbate traffic problems in the area. These changed circumstances further support the denial of this time extension request because they raise questions about the consistency of the extension with the certified LCP.

STAFF REPORT CONTENTS

I.	Staff Recommendation On Extension Of The Coastal Development Permit.....	2
II.	Recommended Findings For Extension Of The Coastal Development Permit.....	3
	A. Standard Of Review.....	3
	B. Location And Background.....	3
	C. Measure H.....	6
	D. Agriculture.....	7
	E. Scenic And Visual Qualities	8
	F. Traffic.....	10
	G. Water Supply	11
	H. Conclusion.....	11
III.	California Environmental Quality Act (CEQA)	12
IV.	Exhibits	
	1. Location Maps	
	2. Vesting Tentative Map	
	3. Existing Zoning Map	
	4. LCPA 1-93 Map	
	5. Measure H	
	6. Site Photos	
	7. City's Conditions of Approval	
	8. Proposed Open Space Easements	
	9. City Ordinance No. 266	
	10. Correspondence	

I. STAFF RECOMMENDATION ON EXTENSION OF THE COASTAL DEVELOPMENT PERMIT

The staff recommends that the Commission, after public hearing, **deny** the extension of the coastal development permit for the proposed project because the proposal is inconsistent with the certified LCP.

MOTION: *I move that the Commission grant a one-year extension to Coastal Development Permit No. A-3-MRB-99-082 because it is consistent with the applicable sections of the certified LCP.*

STAFF RECOMMENDATION OF DENIAL:



Staff recommends a **NO** vote. Failure of this motion will result in denial of the permit extension and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

RESOLUTION

The Commission hereby denies the extension of a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the extension does not conform with the policies of the certified Morro Bay Local Coastal Program. Approval of the extension would not comply with the California Environmental Quality Act because there are feasible mitigation measures or alternatives that would substantially lessen the significant adverse impacts of the development on the environment.

II. RECOMMENDED FINDINGS FOR EXTENSION OF THE COASTAL DEVELOPMENT PERMIT

A. Standard of Review

The Commission certified the City's Local Coastal Program in 1982; therefore, the standard of review in this case is the LCP. The applicable section of the Zoning Ordinance states the following in regard to time extension requests for coastal development permits.

Zoning Ordinance Section 17.58.130B (Time Extensions):

The term for CDP [Coastal Development Permit] permits may be extended by the Director for up to two (2) one year periods.... The Director shall review the proposal for consistency with all applicable ordinances and policies effective at the time of the request for extension.

B. Location and Background

The property, authorized for subdivision by Coastal Development Permit 43-92, is a 175-acre parcel located at the southeastern end of Morro Bay Boulevard, just inland of Highway One, adjacent to land in unincorporated San Luis Obispo County (see Exhibit 1). The property lies on a generally west facing slope and the portion of the property involved in this project lies on either side of the upper reaches of Willow Camp Creek, between two hills. Although currently vacant, the property has in the past been used primarily for cattle grazing. A small, abandoned redrock quarry is also on the property, but not in the area of the proposed development. The entire 175 acres are located within the coastal zone and were initially zoned as Agriculture with certification of the LCP in 1982. Following is a brief history of the Commission's involvement with a variety of location, intensity, and density of use issues on this site. Table 1 following this narrative history presents the history in tabular form.

Excluding the certification process for the City's LCP, the history of the Coastal Commission's involvement with development on this site goes back to at least 1988, when the City submitted an LCP amendment request (LCP 1-88). This LCP amendment, which changed the LUP designation on a portion of the Williams property from Agriculture to Commercial and Visitor-Serving Commercial,



was the result of an initiative (Measure B) passed by the voters of Morro Bay on November 4, 1986. The amendment, which was approved by the Commission on June 7, 1988, redesignated “thirty (30) net acres generally located adjacent to Highway 1 and Morro Bay Boulevard, with approximately fifteen (15) net acres to be available for ‘district commercial’ uses and approximately fifteen (15) net acres to be available for ‘visitor-serving’ uses”. The Commission found that the conversion of the 30 net acre portion of the property from agriculture to non-agricultural uses “can be justified under Sections 30241.5 and 30242.” The findings also state:

The Commission finds that strict adherence to the standards of the LUP and the Coastal Act after conversion [of ag land] to urban uses will assure that no significant adverse effects are created and that any adverse impacts on the remaining adjacent agricultural lands will be mitigated.

Subsequently, the City submitted LCP amendment request 2-88, which changed the zoning on the 30 net acres from Agriculture to Central Business District Commercial and Visitor-Serving Commercial, to be consistent with the new LUP designation. On September 13, 1988, the Commission approved amendment 2-88.

On March 26, 1990, the City of Morro Bay approved Conditional Use Permit 03-88/Coastal Development Permit 05-88R for a 237,000 square foot commercial retail development with 977 parking spaces, including 605,000 cubic yards of grading, filling approximately 1,200 linear feet of Willow Camp Creek, and the extension of Morro Bay Boulevard. That action was appealed to the Commission by the Voters Initiative Committee, and on April 8, 1991, the Commission found that substantial issue existed regarding the grounds of appeal. On July 17, 1991, the Commission approved a project consisting of a 126,235 square foot commercial retail shopping center, 235,000 cubic yards of grading, a stream enhancement program, 728 parking spaces, a frontage road extension, three bridges, crib walls to 28 feet high, and on-site drainage and utilities.

On November 11, 1990, the City of Morro Bay approved a vesting tentative parcel map, Coastal Development Permit 37-90R/Parcel Map 04-90, for a subdivision of the 177.23 acre parcel into four parcels (three parcels totaling 38.3 acres for commercial and visitor-serving commercial development and a remainder parcel of 138.93 acres). That City action was appealed to the Coastal Commission by the Voters Initiative Committee, Roy Harley et al., and Commissioners Gwyn and Franco. On April 8, 1991, the Commission determined that a substantial issue existed. On July 17, 1991, the Commission denied the subdivision request and found that 1) the City’s approval would not restrict the use of the portion of the property not proposed for the shopping center to agricultural uses, as required by LUP Policy 6.05 and Zoning Ordinance Section 17.39.135 and, 2) LUP Policies 3.03 and 3.04 prohibited new water and sewer services to previously unsubdivided areas until a water management plan was incorporated into the LCP.

In 1991, the City submitted amendment request LCP 2-91 (Measure H). This amendment, which originated with another citizens’ initiative, limited the shopping center area to 13 gross acres. The City’s submittal included a proposed shopping center area of 13 gross acres, in accordance with Measure H, with an additional 9.5 acres of visitor-serving commercial uses. LCP Amendment 2-91 was approved by the Coastal Commission on November 13, 1991.



Subsequent to that Commission approval, the City was sued by the Voters Initiative Committee, which claimed that Measure H did not allow any visitor-serving uses. The San Luis Obispo Superior Court agreed with the petitioner and ordered the City to inform the Coastal Commission that visitor-serving uses were impermissible on the site. The City then submitted LCP amendment request 1-93 to delete the 9.5 acres of visitor-serving area. That amendment was approved by the Commission on June 9, 1993.

On June 14, 1993, the City of Morro Bay approved Coastal Development Permit 43-92, a tentative map, for subdivision of the site into two parcels; a 17.54 acre parcel (the commercial development area plus creek open space and buffer areas), and a 157.45 acre remainder parcel, consistent with Measure H (see Exhibit 4). However, the approval did not permanently restrict the use of the portion of the property not proposed for the shopping center to agricultural uses, nor did it prohibit future subdivisions, as required by the LCP. Nonetheless, that action was not appealed to the Coastal Commission.

Thus, by mid-1993, there existed one City Conditional Use Permit and one Coastal Commission Coastal Development Permit for the proposed commercial development and one City Coastal Development Permit for the subdivision of the property, outlined in the table below.

TABLE 1

	City Permits (CUP and CDP)	Coastal Commission Permit (CDP)
Commercial Development	CUP 03-88 (CDP 05-88R was appealed to the Commission)	A-3-MRB-89-134 (result of appeal of CDP 05-88R to the Commission)
Tentative Parcel Map	CDP 43-92	None

Each of these permits have been extended over the years. During that time, the applicant has investigated the possibility of some development on the site other than that approved, but located in the same area and consistent with the commercial zoning. In 1998 the property owner requested from the City an extension of the map (CDP 43-92), which had previously been automatically extended according to amendments to the Subdivision Map Act. As part of the discussions with City staff, the owner agreed to request withdrawal of the conditional use permit (CUP 03-88) for commercial development.

On August 16, 1999, the City Planning Commission approved the time extension for the map and accepted the withdrawal of CUP 03-88. That action was appealed to the City Council, and on September 27, 1999, the City Council denied the appeal and upheld the decision of the Planning Commission. On October 26, 1999, the City's action was appealed to the Coastal Commission.



C. Measure H

On November 6, 1990, the electorate of Morro Bay passed Measure H. That initiative proposed to reduce the total acreage allowed for commercial development on the subject site from 30 net acres to 13 gross acres and to allow only commercial uses, and not visitor-serving uses. Although not explicitly stated, it was implied that the remaining acres not included within the 13 gross acres (but within the original 30 net acres) would be rezoned back to Agriculture; however, the text of the initiative did not discuss the designation of property outside of the district-commercial zone.

Measure H has essentially three parts (see Exhibit 5). The first part directs the City to amend its land use regulations to designate a portion of the Williams' property for "District Commercial" use, including a new shopping center. The second part sets the size of the development ("13 gross acres") and its location ("generally located adjacent to Highway 1 and Morro Bay Boulevard"). The third part says that "[t]he citing (sic) of such use shall be in accordance with a precise development plan. . . ." referring to the second step of the City's two-step development permit process (approval of a Concept Plan followed by the Precise Plan, which constitutes final approval).

Measure H was originally submitted to the Commission in June 1991, as LCP Amendment 2-91, and was approved with suggested modifications at the Commission's November 1991 meeting. Subsequently, before the certification review of the City's acceptance of the Commission's action, the City was sued by the Voters Initiative Committee (the Measure H proponents). The suit was brought to force the City to remove all language in the City's submittal that allowed for visitor-serving uses. In an order dated May 18, 1992, the court found for the Voters Initiative Committee and ordered the City to rescind its decision designating nine and one half acres of the site as visitor-serving. A second court order dated November 9, 1992, clarified the earlier order by requiring the City to inform the Commission in writing that visitor-serving uses were impermissible as a provision of LCP Amendment 2-91, to rescind the ordinance and resolution that were adopted by the City and submitted to the Commission as part of the Measure H amendment request allowing visitor-serving uses on the subject parcel, and to immediately submit to the Commission a revision of LCP Amendment 2-91 that would remove all provisions allowing for visitor-serving uses.

Complying with the court orders, the City rescinded its previous ordinance and resolution and submitted a new amendment, LCP Amendment 1-93. This amendment was approved, as submitted, by the Commission on June 9, 1993. LCP Amendment 1-93 revised both the LUP and the zoning maps by reducing the commercially zoned area to 13 acres and designated the remainder of the 30 net acres (from LCP Amendment 1-88) as Open Area. Table 2 below summarizes the various measures, LCP amendments, and coastal development permit actions that have occurred over the years with respect to the project site.

TABLE 2

Item	CCC Action and Date	Effect
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LCP 1-88 (Measure B)	Approved 06/07/88 (Revised Findings 10/13/88)	Changed LUP designation of agriculture to commercial and visitor serving commercial. Redesignated “thirty (30) net acres, generally located adjacent to Highway 1 and Morro Bay Boulevard, with approximately fifteen (15) net acres to be available for ‘district commercial’ uses and approximately fifteen (15) net acres to be available for ‘visitor-serving’ uses.”
LCP 2-88	Approved 09/13/88	Changed zoning on the 30 net acres from Agriculture to Central Business District Commercial and Visitor-Serving Commercial.
A-4-MRB-89-134	Project approved 07/17/91 (Revised Findings 08/09/91)	Approved 126,235 sq.ft. commercial retail shopping center, 235,000 cu. yds. of grading, stream enhancement, 728 parking spaces, frontage road extension, three bridges, crib walls to 28 feet high, on-site drainage and utilities.
A-4-MRB-90-49	Tentative map denied 07/17/91 (Revised Findings 01/14/92)	Disallowed proposed subdivision of 177.23 acre parcel into a 38.3 acre parcel and a remainder parcel of 138.93 acres. Commission found that 1) the City’s approval would not restrict the use of the portion of the property not proposed for the shopping center to agricultural uses, 2) LUP Policies 3.03 and 3.04 prohibited new water and sewer services to previously unsubdivided areas until a water management plan was incorporated into the LCP.
LCP 2-91 (Measure H)	Approved 11/13/91 (Revised Findings 04/08/92)	Reduced allowable shopping center area to 13 gross acres and limited visitor-serving area to 9.5 acres.
LCP 1-93 (Measure H, as interpreted by Superior Court)	Approved 06/09/93 (Revised Findings 07/20/93)	Eliminated the 9.5 acre visitor-serving designation and placed that area into the Open Area designation.
Morro Bay CDP 43-92, Tentative Map, approved by City on 06/14/93	None	Tentative map for subdivision of site consistent with Measure H.

D. Agriculture

As part of LCP Amendment request 1-88, the agricultural potential of the land was analyzed. The Commission found that the conversion of the 30 net acre portion of the property from agriculture to non-agricultural uses “can be justified under Sections 30241.5 and 30242.” The findings also state



The Commission finds that strict adherence to the standards of the LUP and the Coastal Act after conversion [of ag land] to urban uses will assure that no significant adverse effects are created and that any adverse impacts on the remaining adjacent agricultural lands will be mitigated.

LUP Policy 6.05(3) and states:

Land divisions or development proposals shall include a means of permanently securing the remaining acreage in agricultural use, such as agricultural preserves, open space easements, or granting of development rights. Covenants not to further divide shall also be executed and recorded prior to issuance of development permits.

The City's action originally approving CDP 43-92, the tentative map for the subdivision of the property into two parcels, did not include a "means of permanently securing the remaining acreage in agricultural use..." nor did it prevent future divisions of land. The applicant contends that the property is essentially protected in perpetuity because the zoning was established by a voter's initiative (Ordinance No. 266 - Growth Management) and cannot be changed without a majority vote of the people. In addition, since the appeal was filed, the City has added a condition to the approval of the recent use permit extension to create a covenant to not further subdivide the property (see Exhibit 10, pp. 1-2).

However, regardless of the two measures already in place to protect the agriculturally zoned land, LUP Policy 6.05(3) requires that an agricultural preserve or open space easement be placed over the land, or that the landowner grant the development rights of the property, *as part of the land division proposal*, not a general zoning restriction or policy restriction. Moreover, agricultural zoning is not an equivalent protection of the agricultural remainder as is an in-perpetuity easement, preserve, or granting of development rights. Such permanent legal instruments typically specify and limit future use of agricultural lands to uses that meet the objective of permanent agricultural land preservation. Mere land use or zoning designations do not provide an independent legal instrument with such limitations and indeed, uses within land use or zoning categories could be amended to allow uses that may conflict with the agricultural preservation policy requirement of the LCP. The City did not require such a protective measure in the original approval of the use permit, nor was the issue raised when evaluating subsequent extensions of the permit for compliance with the LCP. Thus, the City's action fails to protect agricultural lands in a manner that is consistent with the LCP. Therefore, approval of the extension request for the map is inconsistent with the LCP Policy 6.05(3). Consequently, it cannot be found that the extension of CDP 43-92 is consistent all applicable ordinances and policies effective at the time of the request for extension. **Therefore, the extension must be denied pursuant to LCP Ordinance Section 17.58.130B.**

E. Scenic and Visual Qualities

LUP Policy 12.01 states:



The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic and coastal areas, to minimize the alteration on natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated on Figure 31, shall be subordinate to the character of its setting.

In addition, the project site is subject to a Special Design Criteria Overlay Zone (S.4), implemented through Zoning Ordinance Section 17.40.050G, which states:

In order to maintain and enhance the character and visual quality of these areas, special design review has been found to be necessary. Applications for development shall include (as appropriate) submittal of architectural, landscaping, lighting, signing and viewshed plans for review and approval.

Since the City's original approval of the tentative map in 1993, the section of Highway One from the San Luis Obispo City limit to the Monterey County Line was designated a State Scenic Highway. This section of the highway passes through Morro Bay within 150 yards of the project site and travelers find the site's hillside area as a part of the view to and along the coast. The scenic and visual qualities of the site serve to provide identity, character, and value to the community, and are recognized in the text and policies within the Land Use Plan. LUP Visual Resources Section XIII (p. 218) states the following in regard to the adjacent hillsides of the Morro Highlands area:

The backdrop of the community, the hills climbing up from the coastal bench and the agricultural flatlands of the Morro and Chorro Valleys are a significant visual resource.... The undeveloped hillsides and ridgelines, left open for grazing, add an important visual dimension to the City. Their color, texture and shape contrast sharply with the urban areas and coastline, and reinforce Morro Bay's image and character as a rural, small scale waterfront community.

While the highway is lower than the project site, the site is visible from the highway (see Exhibit 6) and development in this area would change the character of the hillside and views from the highway. The tentative map was originally approved (and development was planned for the area generally located adjacent to Highway One and Morro Bay Boulevard) prior to the designation of Highway One as a Scenic Highway. In light of the changed circumstances, though, the CDP extension request should be evaluated for consistency with all applicable ordinances and policies effective at the time of the request for extension, including LUP Policy 12.01.

Clearly, the designation of this section of Highway One as a State Scenic Highway is a significant changed circumstance since the time of the approval of the tentative map in 1993. All of the ramifications of the State Scenic Highway designation with regard to development on the subject site are not fully known at this time. Although the LCP has designated a portion of this parcel for commercial development, it may not be appropriate to develop the entire site, based on visual analyses conducted at the time the development is proposed. It could be, for example, that views of the hillsides at the subject site should be protected as a highly scenic area and development may be subject to applicable viewshed protection standards. As a result, the proposed division of land for



future development in this area may or may not be appropriate, based on its potential to be developed in such a way that would adversely impact the scenic and visual resources of the area. Without such visual analysis, the extension cannot be found consistent with Policy 12.01, particularly the requirement that development proposals include viewshed analyses that allow for the protection of sensitive visual resources. **Because of this inconsistency, the extension must be denied as inconsistent with LCP Ordinance 17.58.130B.**

F. Traffic

The project site is adjacent to the Highway One/Morro Bay Boulevard off-ramp; however, no public vehicular access exists to the proposed development site. This off-ramp is one of two major thoroughfares from Highway 1 used to access the core of the City and the Embarcadero. The LCP incorporates, by reference, the general land use policies of the Coastal Act, including the Section 30250 requirement that new development be approved in areas able to accommodate it (LCP Policy 0.1). Though no specific LUP/IP standards address traffic per se, the LUP does provide for protecting public access, and providing adequate infrastructure (water, sewer) for new development.

According to a traffic analysis conducted for the original commercial development proposal, in 1988 (Weston Pringle & Associates, September 19, 1988), the Highway One/northbound Morro Bay Boulevard off-ramp was operating at a Level of Service C and the Morro Bay Boulevard/Quintana Road intersection was operating at a Level of Service B, both of which are acceptable levels of traffic flow.¹ However, given the length of time that has elapsed since this study was conducted and because it does not consider changed circumstances since the approval of the tentative map in 1993, this analysis is no longer valid. In fact, in a letter to Marshall E. Ochylski, dated July 12, 1999, Greg Fuz, Morro Bay Public Services Director, states that, “the key intersection affected by the project, Morro Bay Boulevard/Quintana [Road], is now operating at an unacceptable level of service....” Future development on the eastern side of Highway One will only serve to exacerbate this problem, and potentially impede public access to the sea, unless necessary improvements to the circulation system in this area are completed.

Original approval of the commercial development in 1991 included conditions requiring specific circulation improvements. These include the construction of two new intersections of Morro Bay Boulevard/Highway One northbound ramps and Morro Bay Boulevard/“Ocean View Drive,” signalization of existing intersections, and other related roadway improvements and redesign. These circulation improvements were based on a specific commercial development proposed at that time; a proposal that has since been withdrawn by the applicant. Future development proposals may require a different parcel configuration (e.g. location, size, number of parcels), which may or may not place a different demand on the existing circulation system and thus, require alternative improvements.

As opposed to mere commercial zoning, subdivisions provide a more specific framework for future development and thus, the potential impacts to the circulation system should be analyzed concurrently

¹ Level of Service (LOS) A to C are described as operating quite well, Level of Service D is typically the LOS for which an urban street is designed, LOS E is the maximum volume a facility can accommodate, and LOS F occurs when a facility is overloaded and is characterized by stop-and-go traffic with stoppages of long duration.



with the proposal to subdivide the property. To date, this has not been done. Secondly, given the length of time that has elapsed since these circulation improvements were proposed, it is possible that additional, or alternative, requirements may be deemed more appropriate for existing development and the current level of service in this area. Therefore, because new, updated traffic analyses are needed to address changed circumstances in regard to the project's impacts on traffic patterns, the extension is not consistent with LCP policy 0.1, which incorporates, as a guiding policy, the Coastal Act requirement that new development be located in areas able to accommodate it. **Thus, the extension is not consistent with LCP Ordinance 17.58.130B.**

G. Water Supply

At the time of the appeal of this project to the Coastal Commission, the City was experiencing water supply shortages due to a drought and restrictions on pumping from the Chorro Valley so as to maintain a minimum stream flow for habitat purposes. At that time the City built a desalination plant and pursued delivery of water from the State Water Project. Subsequently, the City also submitted a water management plan for certification into the LCP. That plan guides the City's use of its water supplies and describes the City's priorities for water supply as, in descending order, conservation, State Water, groundwater, and desalination.

Overall, the water supply situation in Morro Bay is much better than it was in the late 1980s and early 1990s, when the permits for the shopping center development and subdivision were approved. This is due primarily to the arrival of State Water in late 1997. In 1997, State Water accounted for 20 percent of the City's water supply. For 1998, the percentage supplied by State Water rose to 97 percent and for 1999, State Water accounted for 98 percent of the City's water supply. This has resulted in a dramatic reduction in pumping from the City's groundwater wells. The total production from the Chorro Valley wells dropped from 985 acre feet in 1997 (64 % of total) to 38 acre feet in 1998 (3 % of total) to 34 acre feet (2 % of total) in 1999. Production from the City's other wells, in the Morro Valley, dropped from 249 acre feet in 1997 (16 % of total) to zero in both 1998 and 1999.

Although the water supply situation has changed in Morro Bay since approvals were granted for the shopping center development and the subdivision, the change has been a positive one rather than a negative one. Therefore, there is no reason to revisit the approvals based on water supply.

H. Conclusion

It is important to note that as stated in the LCP, and further embodied in the Coastal Act, any request for an extension of a coastal development permit shall be reviewed "for consistency with all applicable ordinances and policies effective at the time of the request for extension." In accordance with this policy, staff has identified a number of issues that raise question to the consistency of the extension of the permit with the certified LCP, summarized below, and noted that the provision of water services has actually improved since the permit was originally approved.

First, while the land use history of the site indicates approval of a commercial development in the area shown in Exhibit 2, no land division, or extension thereof, may be approved unless there is a requirement that the applicant "permanently secure the remaining acreage in agricultural use." The



City did not apply such a requirement; therefore the request for time extension of the coastal development permit must be denied.

Secondly, there are a number of changed circumstances, including the designation of this portion of Highway One as a State Scenic Highway and the potential for future development on the newly created parcel to exacerbate traffic problems in the area. These changed circumstances, and the lack of updated analysis of these circumstances, raise conflicts with the resource protection policies of the LCP. **Thus, the extension cannot be approved under Zoning Ordinance Section 17.58.130B.** The effect of this denial is that any future land division proposal must be submitted to the City as a new project, and will be analyzed for consistency with the City's LCP at that time.

Finally, the applicant has filed a request to extend Coastal Commission Coastal Development Permit A-4-MRB-89-134 (for the commercial development); however, the applicant requested that action on that permit extension be held until final action is taken on the extension of this coastal development permit. Depending on what course of action the applicant chooses in this regard, the Commission may, in the future, review the permit extension request for the proposed commercial development.

III. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures that would substantially lessen any significant adverse effect that the project may have on the environment.

As detailed in the findings of this staff report, the Commission has identified environmental impacts of the project that were not effectively addressed by the City's action. In particular, the City's action did not provide for the protection of agricultural land. As a result, the request for permit extension must be denied to assure that there will not be a significant adverse affect on the environment within the meaning of the California Environmental Quality Act.

